

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION

| | | |
|---------------------------------|---|------------------------|
| NICOLE FREEMAN, as wrongful |) | |
| death representative of Gershun |) | |
| Freeman and next friend of |) | |
| minor child T.F., |) | |
| |) | |
| Plaintiff, |) | |
| |) | |
| v. |) | No. 23-cv-2193-MSN-tmp |
| |) | |
| SHERIFF FLOYD BONNER, JR., in |) | |
| his individual capacity, CHIEF |) | |
| JAILER KIRK FIELDS, in his |) | |
| individual capacity, and |) | |
| GOVERNMENT OF SHELBY COUNTY, |) | |
| TENNESSEE, |) | |
| |) | |
| Defendants. |) | |

NOTICE OF CLARIFICATION REGARDING REPORT AND RECOMMENDATION

On May 30, 2025, the undersigned entered a Report and Recommendation ("R&R") regarding three Motions to Dismiss filed by defendants Sheriff Floyd Bonner, Chief Jailer Kirk Fields, and the Government of Shelby County. (ECF No. 126.) All three defendants filed timely objections to the R&R on June 20, 2025. (ECF Nos. 131, 132, 133.) In his objections, Bonner states that the R&R's description of the video evidence viewed by the undersigned in deciding the Motions to Dismiss "does not appear to comport with the video served on Defendants or described in [plaintiff Nicole Freeman's] Second Amended Complaint." (ECF No. 131 at PageID 1513.)

As Bonner explains, the undersigned noted in the R&R that the video footage submitted by Plaintiff "is not time-stamped and contains no sound." (Id.; ECF No. 126 at PageID 1430 n.1.) But, according to Bonner, "[t]he Second Amended Complaint expressly references time stamps[,] as does the memorandum filed by Defendant Bonner in support of his motion to dismiss." (ECF No. 131 at PageID 1513.)

For the limited purpose of clarifying the record, the undersigned submits this notice to affirm that the video evidence reviewed in deciding Bonner's Motion to Dismiss was retrieved from the Clerk of Court and marked as Exhibit E to Plaintiff's original complaint. (See ECF No. 54-1 at PageID 627-28 (writing that the video footage incorporated by Plaintiff in her Second Amended Complaint was previously filed as an exhibit to Plaintiff's first complaint, "placed on file with the Clerk," and was thirteen minutes and eight seconds in length).) The exhibit contained two flash drives, each with an identical thirteen minute and eight second video that did not contain sound. Furthermore, the video itself does not display timestamps indicating the date, hour, or minute of when the events depicted took place.

This notice is provided for clarification purposes only and is not intended as commentary on the parties' objections to the R&R.

s/Tu M. Pham

TU M. PHAM

Chief United States Magistrate Judge

June 23, 2025

Date